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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/852,366	05/10/2001	Patrick Michael LiVecchi	CR9-98-027B	5568

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EXAMINER

BANANKHAH, MAJID A

ART UNIT	PAPER NUMBER
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2127

DATE MAILED: 04/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/852,366

Applicant(s)

LIVECCHI, PATRICK MICHAEL

Examiner

Majid A Banankhah

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 May 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 7-10, 21-24 and 35-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8, 22 and 35 is/are rejected.
- 7) ☒ Claim(s) 7, 9, 10, 21, 23, 24, 35, 37 and 38 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2</u> . | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. This office action is in response to application filed on April 20, 2001. Claims 6-25 are considered for examination.

#### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 7-10, 21-24, and 35-38 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Per claims 7, 21, and 35, the claims in the preamble recite “a connection to a network”, and “multithreaded application”. In the first subprocess, the claim recites “pending connections”. The relationship between “a connection” in the preamble and “connections” in the first subprocess is unclear. Furthermore, the function of subprocesses is unrelated to the “enhancing performance of a multithreaded application”. The recitation of “connections are accepted” used in the first subprocess is vague. Whether it is accepted into a “pending connections queue” or “a first queue” is unclear.

Additionally, claim recites “data packet arrives for said connection” in the second subprocess is vague. It is unclear whether the claim is referring to the “connection to a network” in the preamble of claim or to any of the “connections” in the first subprocess before this second subprocess.

Per claims 8, 22, and 36, the claims in the preamble recite “connection to a network”, and “enhancing performance of a multithreaded application”. There is no connection between the

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claim limitations (receiving input from multiple resource, and received input into a single queue for scheduling) and the elements in the preamble.

Claims 9, 23, and 37 are rejected for the reasons stated in the rejection of claims 7, 21, and 35 respectively. Claims 10, 24, and 38 are rejected for the rejection of their parent claims.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**While claims 8, 22, and 36, were rejected under 35 USC 112, Second paragraph** as stated above, in order to advance prosecution, claims will be treated on the merits in view of examiner's best understanding of the disclosure and the prior art.

Claims 8, 22 and 36 are rejected under 35 U.S.C. 102(e) as being anticipated by Freund.

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e).

This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR

1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention “by another,” or by an appropriate showing under 37 CFR 1.131.

Per claims 8, 22, and 36, Freund teaches:

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in a computing environment having a connection to a network, computer readable code readable by a computer system in said environment, for enhancing performance of a multithreaded application (the system of Freund, U. S. Patent No. 5,925,098) a, comprising:

a subprocess for receiving input from multiple sources (col. 4, lines 13-22, client request, requests originating from client computer located on a different platform from said server computer); and

a subprocess for merging said received input onto a single queue for scheduling (col. 6, lines 6-20, and Fig. 4, 43a, and lines 39-58).

4. Claim 7, 21, and 35 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action. Claim 9-10, 23-24, and 37-38 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Majid A. Banankhah** whose voice telephone number is (703) 308-6903. A voice mail service is also available at this number.

All response sent to U.S. Mail should be mailed to:

**Commissioner of Patent and Trademarks  
Washington, D.C. 20231**

**Hand-delivered responses should be brought to Crystal Park Two, 2021 Crystal Drive, Arlington, VA, Six Floor (Receptionist).** All hand-delivered responses will be handled and entered by the docketing personnel. Please do not hand deliver responses to the Examiner.

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**All Formal or Official Faxes must be signed and sent to either (703) 308-9051 or (703) 308-9052.** Official faxes will be handled and entered by the docketing personnel. The date of entry will correspond to the actual FAX reception date unless that date is a Saturday, Sunday, or a Federal Holiday within the District of Columbia, in which case the official date of receipt will be the next business day. The application file will be promptly forwarded to the Examiner unless the application file must be sent to another area of the office, e.g., Finance Division for fee charging, etc.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is **(703) 305-9600**.

Majid Banankhah

4/27/04

  
MAJID BANANKHAH  
PRIMARY EXAMINER